

Appln. No. 10/693,439

Amendment in Resp. to Off. Act. of Nov. 17, 2004

UTILITY PATENT

B&D No. TN-09409

REMARKS

Applicants have amended Claims 1, 5 and 12, and canceled Claims 2-4 and 11. Currently in the above-identified application therefore are Claims 1, 5-10 and 12-18.

The Examiner required formal drawings. In response, Applicants have filed formal drawings herewith.

The Examiner rejected Claim 17 under 35 USC § 112, second paragraph, for failing to have proper antecedent basis for the "first planar beam." Applicants have amended Claim 1 to provide such antecedent basis. Being that Claim 17 is dependent upon Claim 1, proper antecedent may be found for the "first planar beam."

The Examiner rejected Claims 1-3, 6-7 and 10 under 35 USC § 102(b) as being anticipated by US Patent No. 6,459,483 ("Shafer"). The Examiner also rejected Claims 4-5 and 11-13 under 35 USC § 103(a) as being unpatentable over Shafer in view of US Patent No. 6,202,312 ("Rando '312"). Further, the Examiner rejected Claims 8-9 under 35 USC § 103(a) as being unpatentable over Shafer in view of US Patent Nos. 4,451,909 ("Kodera"), 4,464,738 ("Czajkowski"), or 4,910,717 ("Terry"). In addition, the Examiner rejected Claims 14-15 and 18 under 35 USC § 103(a) as being unpatentable over Shafer in view of US Patent No. 6,502,319 ("Goodrich"). The Examiner also rejected Claims 16-17 under 35 USC § 103(a) as being unpatentable over Shafer in view of US Patent No. 6,009,630. Reconsideration and withdrawal of these rejections are respectfully requested.

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Claim 1, as amended, calls for a laser level disposable on a substantially vertical reference surface comprising a housing, a pendulum pivotably connected to the housing, a first laser diode disposed on the pendulum for emitting a first laser beam along a first path, a first lens disposed on the pendulum in the first path for converting the first laser beam into a first planar beam, the first planar beam forming a first line on the reference surface, and an electronic distance measuring circuit disposed in the housing for measuring distance.

Admittedly, Shafer discloses a laser level with a housing, a pendulum, a first laser diode disposed on the pendulum for emitting a first laser beam along a first path, and an electronic distance measuring circuit disposed in the housing for measuring distance. However, Shafer does not disclose disposing the laser level against a reference surface, especially a substantially vertical reference surface, or providing the laser level with a lens disposed on the pendulum in the first path for converting the first laser beam into a first planar beam, the first planar beam forming a first line on the reference surface.

By contradistinction, Claim 1 calls for a "laser level disposable on a substantially vertical reference surface" which has "a first lens disposed on the pendulum in the first path for converting the first laser beam into a first planar beam, the first planar beam forming a first line on the reference surface."

These elements were added from Claim 4 and the intervening claims. The Examiner had rejected Claim 4 based on the combination of Shafer and Rando '312. However, a review of Rando '312 shows that such elements are not taught or suggested by Rando '312. In particular,

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the laser level of Rando '312 is not disposed on a substantially vertical reference surface. This is because the Rando '312 disclosure relates to "a hand tool for projecting two or more reference beams of visible light for precise alignment on floors." Rando '312, col. 1, lines 7-10. Furthermore, Rando '312 does not disclose providing a lens on the pendulum for converting the laser beam into a planar beam. Because Rando '312 does not teach or suggest these elements, the combination of Shafer and Rando '312 cannot render Claim 1 and its dependent claims unpatentable.

Based on the foregoing, all the claims are patentable and the application is believed to be in condition for formal allowance. Reconsideration of the application and allowance of Claims 1, 5-10 and 12-18 are respectfully requested.

No fee is due for the present amendment. Nevertheless, the Commissioner is authorized to charge payment of any fees due in processing this response, or credit any overpayment to Deposit Account No. 02-2548.

Respectfully submitted,



Adan Ayala, Reg. No. 38,373
Attorney for Applicants
(410) 716-2368